

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAURILLO TREJO,

Defendant.

NO. CR-09-6003-RHW

**ORDER GRANTING
DEFENDANT'S MOTION FOR
RECONSIDERATION**

Before the Court is Defendant's Motion for Reconsideration (Ct. Rec. 32). A hearing on the motion was held on September 24, 2009, in Richland, Washington. Defendant was present and represented by John Crowley.

On August 24, 2009, the Court denied Defendant's Motion to Suppress, ruling that although under *Arizona v. Gant*, Defendant's constitutional rights were violated by the search of his vehicle incident to arrest, the good-faith exception to the exclusionary rule applied. The Court also ruled that the search was not justified as an inventory search. On that same day, the Ninth Circuit handed down *United States v. Gonzalez*, __ F.3d __, 2009 WL 2581738 (9th Cir. Aug. 24, 2009). The Circuit applied the exclusionary rule to the automobile search incident to arrest.

The Government concedes that *Gonzalez* controls as it presently exists. As such, the Court grants Defendant's Motion for Reconsideration. The Court finds that the good-faith exception does not apply to the unconstitutional vehicle search incident to arrest, pursuant to *Gonzalez*.

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1 At the hearing, the Government orally moved to stay the case to permit it to
2 appeal the Court's ruling granting Defendant's Motion to Suppress. Defendant did
3 not object to the stay. The Court granted the motion.

4 Accordingly, **IT IS HEREBY ORDERED:**

5 1. Defendant's Motion for Reconsideration (Ct. Rec. 32) is **GRANTED**.

6 2. The Government's oral Motion to Stay the case pending appeal is
7 **GRANTED**.

8 3. The jury trial set for **October 5, 2009**, is **stricken**.

9 4. The Government shall notify the Court when the Ninth Circuit has ruled
10 on its appeal.

11 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
12 order and to provide copies to counsel.

13 **DATED** this 25th day of September, 2009.

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15 *s/Robert H. Whaley*

16 ROBERT H. WHALEY
17 United States District Judge
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